



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant to determine whether the *Manufacture Home Park Tenancy Act* applies to their agreement to rent the site.

In this case, the Applicant entered in an agreement to occupy the site. The site is located on first nation land.

I have referred to the Residential Tenancy Policy Guideline 27. Jurisdiction,

1. First Nation Lands

- a. Reserve Lands Homes or rental units located on “lands reserved for Indians” as defined by section 91(24) of the Constitution Act (“Reserve Lands”), will fall under Federal legislative power. The Courts have held that provincial legislation cannot apply to the right of possession on Reserve Lands. In *Sechelt Indian Band v. British Columbia*¹, the Court held that the Residential Tenancy Act and Manufactured Home Park Tenancy Act are inapplicable to tenancy agreements on Reserve Lands where the landlord is an Indian or Indian Band.

The Residential Tenancy Branch, **therefore, has no jurisdiction on reserve lands if:**

- The landlord is an Indian or Indian Band; or
- **The dispute is about use and possession.**

The Residential Tenancy Branch **may have jurisdiction** on reserve lands if:

- The landlord is not an Indian or Indian Band; and
- **The dispute is not about use and possession.**

I have referred to the Residential Tenancy Policy Guideline 9. Tenancy Agreements and Licences to Occupy.

C. LICENCES TO OCCUPY

Under a licence to occupy, a person is given permission to use a rental unit or site, but that permission may be revoked at any time. The Branch does not have the authority under the MHPTA to determine disputes regarding licences to occupy.

In this matter, the Applicant rented a site on native land under a license to occupy. I find I have no jurisdiction to hear this matter as it is related to the use and possession of the site, which is first nation land. Therefore, I find the tenants only rights to the site is a license to occupy which the Branch does not have the authority under the MHPTA to determine disputes.

Based on the above, I decline to hear this application as it does not fall within my jurisdiction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufacture Home Park Tenancy Act*.

Dated: October 08, 2020

Residential Tenancy Branch